

1-1 By: Williams S.B. No. 725
 1-2 (In the Senate - Filed February 21, 2013; February 25, 2013,
 1-3 read first time and referred to Committee on Intergovernmental
 1-4 Relations; May 10, 2013, reported favorably by the following vote:
 1-5 Yeas 5, Nays 0; May 10, 2013, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7				
1-8	X			
1-9	X			
1-10	X			
1-11	X			
1-12	X			

1-13 A BILL TO BE ENTITLED
 1-14 AN ACT

1-15 relating to the creation of the Montgomery County Municipal Utility
 1-16 District No. 134; granting a limited power of eminent domain;
 1-17 providing authority to issue bonds; providing authority to impose
 1-18 assessments, fees, and taxes.

1-19 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-20 SECTION 1. Subtitle F, Title 6, Special District Local Laws
 1-21 Code, is amended by adding Chapter 8458 to read as follows:

1-22 CHAPTER 8458. MONTGOMERY COUNTY MUNICIPAL UTILITY DISTRICT
 1-23 NO. 134

1-24 SUBCHAPTER A. GENERAL PROVISIONS

1-25 Sec. 8458.001. DEFINITIONS. In this chapter:

1-26 (1) "Board" means the district's board of directors.

1-27 (2) "Commission" means the Texas Commission on
 1-28 Environmental Quality.

1-29 (3) "Director" means a board member.

1-30 (4) "District" means the Montgomery County Municipal
 1-31 Utility District No. 134.

1-32 Sec. 8458.002. NATURE OF DISTRICT. The district is a
 1-33 municipal utility district created under Section 59, Article XVI,
 1-34 Texas Constitution.

1-35 Sec. 8458.003. CONFIRMATION AND DIRECTORS' ELECTION
 1-36 REQUIRED. The temporary directors shall hold an election to
 1-37 confirm the creation of the district and to elect five permanent
 1-38 directors as provided by Section 49.102, Water Code.

1-39 Sec. 8458.004. CONSENT OF MUNICIPALITY REQUIRED. The
 1-40 temporary directors may not hold an election under Section 8458.003
 1-41 until each municipality in whose corporate limits or
 1-42 extraterritorial jurisdiction the district is located has
 1-43 consented by ordinance or resolution to the creation of the
 1-44 district and to the inclusion of land in the district.

1-45 Sec. 8458.005. FINDINGS OF PUBLIC PURPOSE AND BENEFIT.

1-46 (a) The district is created to serve a public purpose and benefit.

1-47 (b) The district is created to accomplish the purposes of:

1-48 (1) a municipal utility district as provided by
 1-49 general law and Section 59, Article XVI, Texas Constitution; and

1-50 (2) Section 52, Article III, Texas Constitution, that
 1-51 relate to the construction, acquisition, improvement, operation,
 1-52 or maintenance of macadamized, graveled, or paved roads, or
 1-53 improvements, including storm drainage, in aid of those roads.

1-54 Sec. 8458.006. INITIAL DISTRICT TERRITORY. (a) The
 1-55 district is initially composed of the territory described by
 1-56 Section 2 of the Act enacting this chapter.

1-57 (b) The boundaries and field notes contained in Section 2 of
 1-58 the Act enacting this chapter form a closure. A mistake made in the
 1-59 field notes or in copying the field notes in the legislative process
 1-60 does not affect the district's:

1-61 (1) organization, existence, or validity;

2-1 (2) right to issue any type of bond for the purposes
 2-2 for which the district is created or to pay the principal of and
 2-3 interest on a bond;

2-4 (3) right to impose a tax; or

2-5 (4) legality or operation.

2-6 SUBCHAPTER B. BOARD OF DIRECTORS

2-7 Sec. 8458.051. GOVERNING BODY; TERMS. (a) The district is
 2-8 governed by a board of five elected directors.

2-9 (b) Except as provided by Section 8458.052, directors serve
 2-10 staggered four-year terms.

2-11 Sec. 8458.052. TEMPORARY DIRECTORS. (a) On or after the
 2-12 effective date of the Act enacting this chapter, the owner or owners
 2-13 of a majority of the assessed value of the real property in the
 2-14 district may submit a petition to the commission requesting that
 2-15 the commission appoint as temporary directors the five persons
 2-16 named in the petition. The commission shall appoint as temporary
 2-17 directors the five persons named in the petition.

2-18 (b) Temporary directors serve until the earlier of:

2-19 (1) the date permanent directors are elected under
 2-20 Section 8458.003; or

2-21 (2) the fourth anniversary of the effective date of
 2-22 the Act enacting this chapter.

2-23 (c) If permanent directors have not been elected under
 2-24 Section 8458.003 and the terms of the temporary directors have
 2-25 expired, successor temporary directors shall be appointed or
 2-26 reappointed as provided by Subsection (d) to serve terms that
 2-27 expire on the earlier of:

2-28 (1) the date permanent directors are elected under
 2-29 Section 8458.003; or

2-30 (2) the fourth anniversary of the date of the
 2-31 appointment or reappointment.

2-32 (d) If Subsection (c) applies, the owner or owners of a
 2-33 majority of the assessed value of the real property in the district
 2-34 may submit a petition to the commission requesting that the
 2-35 commission appoint as successor temporary directors the five
 2-36 persons named in the petition. The commission shall appoint as
 2-37 successor temporary directors the five persons named in the
 2-38 petition.

2-39 SUBCHAPTER C. POWERS AND DUTIES

2-40 Sec. 8458.101. GENERAL POWERS AND DUTIES. The district has
 2-41 the powers and duties necessary to accomplish the purposes for
 2-42 which the district is created.

2-43 Sec. 8458.102. MUNICIPAL UTILITY DISTRICT POWERS AND
 2-44 DUTIES. The district has the powers and duties provided by the
 2-45 general law of this state, including Chapters 49 and 54, Water Code,
 2-46 applicable to municipal utility districts created under Section 59,
 2-47 Article XVI, Texas Constitution.

2-48 Sec. 8458.103. AUTHORITY FOR ROAD PROJECTS. Under Section
 2-49 52, Article III, Texas Constitution, the district may design,
 2-50 acquire, construct, finance, issue bonds for, improve, operate,
 2-51 maintain, and convey to this state, a county, or a municipality for
 2-52 operation and maintenance macadamized, graveled, or paved roads, or
 2-53 improvements, including storm drainage, in aid of those roads.

2-54 Sec. 8458.104. ROAD STANDARDS AND REQUIREMENTS. (a) A
 2-55 road project must meet all applicable construction standards,
 2-56 zoning and subdivision requirements, and regulations of each
 2-57 municipality in whose corporate limits or extraterritorial
 2-58 jurisdiction the road project is located.

2-59 (b) If a road project is not located in the corporate limits
 2-60 or extraterritorial jurisdiction of a municipality, the road
 2-61 project must meet all applicable construction standards, zoning and
 2-62 subdivision requirements, and regulations of each county in which
 2-63 the road project is located.

2-64 (c) If the state will maintain and operate the road, the
 2-65 Texas Transportation Commission must approve the plans and
 2-66 specifications of the road project.

2-67 Sec. 8458.105. COMPLIANCE WITH MUNICIPAL CONSENT ORDINANCE
 2-68 OR RESOLUTION. The district shall comply with all applicable
 2-69 requirements of any ordinance or resolution that is adopted under

3-1 Section 54.016 or 54.0165, Water Code, and that consents to the
 3-2 creation of the district or to the inclusion of land in the
 3-3 district.

3-4 SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

3-5 Sec. 8458.151. ELECTIONS REGARDING TAXES OR BONDS.

3-6 (a) The district may issue, without an election, bonds and other
 3-7 obligations secured by:

3-8 (1) revenue other than ad valorem taxes; or

3-9 (2) contract payments described by Section 8458.153.

3-10 (b) The district must hold an election in the manner
 3-11 provided by Chapters 49 and 54, Water Code, to obtain voter approval
 3-12 before the district may impose an ad valorem tax or issue bonds
 3-13 payable from ad valorem taxes.

3-14 (c) The district may not issue bonds payable from ad valorem
 3-15 taxes to finance a road project unless the issuance is approved by a
 3-16 vote of a two-thirds majority of the district voters voting at an
 3-17 election held for that purpose.

3-18 Sec. 8458.152. OPERATION AND MAINTENANCE TAX. (a) If
 3-19 authorized at an election held under Section 8458.151, the district
 3-20 may impose an operation and maintenance tax on taxable property in
 3-21 the district in accordance with Section 49.107, Water Code.

3-22 (b) The board shall determine the tax rate. The rate may not
 3-23 exceed the rate approved at the election.

3-24 Sec. 8458.153. CONTRACT TAXES. (a) In accordance with
 3-25 Section 49.108, Water Code, the district may impose a tax other than
 3-26 an operation and maintenance tax and use the revenue derived from
 3-27 the tax to make payments under a contract after the provisions of
 3-28 the contract have been approved by a majority of the district voters
 3-29 voting at an election held for that purpose.

3-30 (b) A contract approved by the district voters may contain a
 3-31 provision stating that the contract may be modified or amended by
 3-32 the board without further voter approval.

3-33 SUBCHAPTER E. BONDS AND OTHER OBLIGATIONS

3-34 Sec. 8458.201. AUTHORITY TO ISSUE BONDS AND OTHER
 3-35 OBLIGATIONS. The district may issue bonds or other obligations
 3-36 payable wholly or partly from ad valorem taxes, impact fees,
 3-37 revenue, contract payments, grants, or other district money, or any
 3-38 combination of those sources, to pay for any authorized district
 3-39 purpose.

3-40 Sec. 8458.202. TAXES FOR BONDS. At the time the district
 3-41 issues bonds payable wholly or partly from ad valorem taxes, the
 3-42 board shall provide for the annual imposition of a continuing
 3-43 direct ad valorem tax, without limit as to rate or amount, while all
 3-44 or part of the bonds are outstanding as required and in the manner
 3-45 provided by Sections 54.601 and 54.602, Water Code.

3-46 Sec. 8458.203. BONDS FOR ROAD PROJECTS. At the time of
 3-47 issuance, the total principal amount of bonds or other obligations
 3-48 issued or incurred to finance road projects and payable from ad
 3-49 valorem taxes may not exceed one-fourth of the assessed value of the
 3-50 real property in the district.

3-51 SECTION 2. The Montgomery County Municipal Utility District
 3-52 No. 134 initially includes all the territory contained in the
 3-53 following area:

3-54 Being 314.858 acres of land located in the Martin P. Clark
 3-55 Survey, Abstract Number 148, Montgomery County, Texas, being a part
 3-56 of the Foster Clark Tract and all of the Foster Buchanan Tract
 3-57 described in the Development Agreement of record under File Number
 3-58 2010019564 in the Official Public Records of Montgomery County,
 3-59 Texas (M.C.O.P.R.) and being all of that certain called 1.3004 acre
 3-60 tract conveyed to Foster Timber, Ltd. by the instrument of record
 3-61 under File Number 2010076447, M.C.O.P.R., said 314.858 acres being
 3-62 more particularly described by metes and bounds as follows, all
 3-63 bearings are referenced to the Silver City Colored Subdivision, a
 3-64 subdivision of record in Volume 5, Page 7 of the Map Records of
 3-65 Montgomery County, Texas (M.C.M.R.):

3-66 COMMENCING at the northeast corner of the Foster Collard Area
 3-67 Tract 2 as described in said Development Agreement on the west line
 3-68 of said Foster Clark Tract, same being the common line between said
 3-69 Collard and Clark Surveys;

4-1 Thence, North 15° 00' 00" East, along said west line, 4,616.66
4-2 feet to the POINT OF BEGINNING of the herein described tract;

4-3 Thence, North 15° 00' 00" East, continuing along said west
4-4 line, 1,582.74 feet to a point for the northwest corner of the
4-5 herein described tract, same being the northwest corner of said
4-6 Foster Clark tract and being the most southerly west corner of the
4-7 J. Buchanan Survey, Abstract Number 100 and the most northerly west
4-8 corner of the aforementioned Clark Survey;

4-9 Thence, South 75° 00' 00" East, along the north line of said
4-10 Foster Clark Tract, same being the common line between said
4-11 Buchanan and Clark surveys, 5,017.27 feet to a point for corner
4-12 being the southwest corner of the aforementioned 1.3004 acre tract;

4-13 Thence, North 18° 18' 49" East, along the west line of said
4-14 1.3004 acre tract, 635.73 feet to a point for the northwest corner
4-15 of said 1.3004 acre tract on the arc of a non-tangent curve to the
4-16 left having a radius of 3,883.43 feet and being on the south line of
4-17 F.M. 830;

4-18 Thence, along said south line, the north line of said 1.3004
4-19 acre tract and the arc of said curve, passing the common north
4-20 corner of said 1.3004 acre tract and the aforementioned Foster
4-21 Buchanan Tract at 91.09 feet, continuing along the north line of
4-22 said Foster Buchanan Tract and said curve, through a central angle
4-23 of 20° 43' 54", a total arc length of 1,405.16 feet, and a chord that
4-24 bears South 80° 42' 30" East, 1,397.50 feet to the northeast corner
4-25 of said Foster Buchanan Tract at the end of said curve;

4-26 Thence, North 88° 59' 13" East, continuing along said south
4-27 line and the north line of said Foster Buchanan Tract, 149.82 feet
4-28 to a point for the northeast corner of the herein described tract,
4-29 same being the northeast corner of said Foster Buchanan Tract on the
4-30 common survey line between the aforementioned Buchanan Survey and
4-31 the F. K. Henderson Survey, Abstract Number 248, also being the
4-32 northwest corner of Panorama Hiwon Section Three, a subdivision of
4-33 record in Volume 9, Page 15, M.C.M.R.;

4-34 Thence, South 15° 00' 00" West, along said common survey line
4-35 and the west line of said Panorama Hiwon Section Three, Panorama
4-36 Hiwon Section Two in Volume 8, Page 31, M.C.M.R., Panorama Hiwon
4-37 Section One in Volume 8, Page 29, M.C.M.R. and Panorama Quail Creek
4-38 Section One in Volume 7, Page 329, M.C.M.R., 3,034.44 feet to a
4-39 point for the southeast corner of the herein described tract, same
4-40 being the most southerly northeast corner of the aforementioned
4-41 Foster Clark Tract;

4-42 Thence, North 75° 00' 00" West, along a southerly line of the
4-43 said Foster Clark Tract, 3,536.10 feet to a point for corner;

4-44 Thence, South 10° 00' 00" West, along an easterly line of said
4-45 Foster Clark Tract, 289.46 feet to a point for corner;

4-46 Thence, over and across said Foster Clark Tract the following
4-47 four (4) courses;

4-48 1) North 27° 18' 48" West, 2,162.16 feet to a point for
4-49 corner;

4-50 2) South 50° 44' 32" West, 880.76 feet to a point for corner,
4-51 the beginning of a non-tangent curve to the left;

4-52 3) Along the arc of said curve to the left having a radius of
4-53 500.00 feet, a central angle of 31° 45' 29", an arc length of 277.14
4-54 feet, and a chord that bears North 61° 27' 52" West, 273.61 feet to a
4-55 point for corner at the end of said curve;

4-56 4) North 76° 33' 47" West, 842.01 feet to the POINT OF
4-57 BEGINNING and containing 314.858 acres of land.

4-58 SECTION 3. (a) The legal notice of the intention to
4-59 introduce this Act, setting forth the general substance of this
4-60 Act, has been published as provided by law, and the notice and a
4-61 copy of this Act have been furnished to all persons, agencies,
4-62 officials, or entities to which they are required to be furnished
4-63 under Section 59, Article XVI, Texas Constitution, and Chapter 313,
4-64 Government Code.

4-65 (b) The governor, one of the required recipients, has
4-66 submitted the notice and Act to the Texas Commission on
4-67 Environmental Quality.

4-68 (c) The Texas Commission on Environmental Quality has filed
4-69 its recommendations relating to this Act with the governor, the

5-1 lieutenant governor, and the speaker of the house of
5-2 representatives within the required time.

5-3 (d) All requirements of the constitution and laws of this
5-4 state and the rules and procedures of the legislature with respect
5-5 to the notice, introduction, and passage of this Act are fulfilled
5-6 and accomplished.

5-7 SECTION 4. (a) If this Act does not receive a two-thirds
5-8 vote of all the members elected to each house, Subchapter C, Chapter
5-9 8458, Special District Local Laws Code, as added by Section 1 of
5-10 this Act, is amended by adding Section 8458.106 to read as follows:

5-11 Sec. 8458.106. NO EMINENT DOMAIN POWER. The district may
5-12 not exercise the power of eminent domain.

5-13 (b) This section is not intended to be an expression of a
5-14 legislative interpretation of the requirements of Subsection (c),
5-15 Section 17, Article I, Texas Constitution.

5-16 SECTION 5. This Act takes effect immediately if it receives
5-17 a vote of two-thirds of all the members elected to each house, as
5-18 provided by Section 39, Article III, Texas Constitution. If this
5-19 Act does not receive the vote necessary for immediate effect, this
5-20 Act takes effect September 1, 2013.

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